

# HOUSE BILL REPORT

## ESHB 2222

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### As Amended by the Senate

**Title:** An act relating to conditioning industrial storm water general discharge permits.

**Brief Description:** Regarding conditioning industrial storm water general discharge permits.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Kretz, Short, Eddy, Smith, Takko, Hinkle, Hudgins, Springer, Herrera, Morris, Warnick, Williams and Chandler).

### Brief History:

#### Committee Activity:

Agriculture & Natural Resources: 2/19/09, 2/20/09 [DPS].

#### Floor Activity

Passed House: 3/11/09, 97-0.

Senate Amended.

Passed Senate: 4/14/09, 48-0.

### Brief Summary of Engrossed Substitute Bill

- Requires the Department of Ecology (DOE) to modify or reissue the industrial storm water general permit by November 1, 2009.
- Allows the DOE to establish a compliance schedule for industrial storm water general permittees.
- Authorizes industrial storm water general permittees to elect to have an individual storm water permit or coverage under an alternative permit.
- Requires the DOE to implement a technical assistance program by July 1, 2010.
- Requires the DOE to develop a long-term compliance assessment and enforcement plan for the industrial and construction general storm water permits by June 30, 2010.
- Requires the DOE, in consultation with an advisory committee, to create a storm water technical resource center.

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## HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Kretz, McCoy, Ormsby, Pearson, Van De Wege and Warnick.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Jacks, Liias and Nelson.

**Staff:** Jaclyn Ford (786-7339)

**Background:**

The federal Clean Water Act (CWA) establishes the National Pollution Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

The Department of Ecology (DOE) has been delegated authority by the U.S. Environmental Protection Agency (EPA) to administer the NPDES permits.

In the NPDES permit programs, the DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers). These permits include limits on the quantity and concentrations of contaminants that may be discharged. These permits also may require wastewater treatment or impose operating or other conditions.

**Summary of Engrossed Substitute Bill:**

Compliance Dates.

By November 1, 2009, the DOE must modify or reissue the industrial storm water general permit to require compliance with appropriately derived, numeric, water quality-based effluent limitations for existing discharges to impaired water bodies under the CWA. The industrial storm water general permit must require compliance no later than six months after the permit's effective date. The DOE may establish a compliance schedule for permittees that the DOE determines are unable to comply by the original compliance date, but compliance must occur no later than 18 months after the permit's effective date. Before establishing a compliance schedule, the DOE must post on the DOE website the proposed compliance schedule.

Individual and Alternative Permitting.

The industrial storm water general permit must include a provision to allow an entity to apply for an individual storm water permit or coverage under another alternative permit.

Technical Assistance Program.

By July 1, 2010, the DOE must implement a technical assistance program. In order to maximize the effectiveness of the technical assistance program and identify resources needed to implement the technical assistance program, the DOE must seek input from stakeholders.

### Compliance Assessment and Enforcement Plan.

By June 30, 2010, the DOE must work with a stakeholder committee to develop a long-term compliance assessment and enforcement plan for the industrial and construction general storm water permits. The plan must outline a strategy to identify entities that are required to be covered under the permit.

### Storm Water Technical Resource Center.

The DOE, in consultation with an advisory committee, must create a storm water technical resource center in partnership with a university, nonprofit organization, or other public or private entity to provide tools for storm water management. The center must use its authority to support research, development, technology demonstration, technology transfer, education, outreach, recognition, and training programs.

The DOE, in consultation with an advisory committee, must identify a funding strategy for funding the storm water technical resource center. The DOE must encourage all interested parties to help and support the technical resource center with in-kind services.

The DOE must prepare and submit a biennial progress report on the storm water technical resource center to the Legislature.

### **EFFECT OF SENATE AMENDMENT(S):**

The amended bill adds the requirement that:

(1) Any compliance schedule provided by the DOE must require compliance as soon as possible, and must require compliance by no later than twenty-four months, or two complete wet seasons, after the effective date of the industrial storm water general permit. "Wet seasons" means October 1st through June 30th.

(2) The DOE post on its web site the name, location, industrial storm water permit number, and the reason for requesting a compliance schedule for each permittee who requests a compliance schedule.

(3) The DOE post the web site information no later than 30 days after receiving a permittee's request for a compliance schedule.

(4) The DOE prepare a list of organizations and individuals seeking to be notified when requests for compliance schedules are made, and electronically notify them within 30 days after receiving a permittee's request for a compliance schedule.

(5) As funding to do so becomes available, the DOE create a storm water technical resource center in partnership with a university, nonprofit organization, or other public or private entity to provide tools for storm water management.

The amended bill deletes the requirement that:

(1) The industrial storm water general permit include a provision to allow an entity subject to coverage by the permit to apply for an individual storm water permit or coverage under another alternative permit as provided in the industrial storm water general permit.

(2) By July 1, 2010, the DOE implement a technical assistance program and seek input from stakeholders.

(3) By June 30, 2010, the DOE develop a long-term compliance assessment and enforcement plan for the construction and industrial storm water general permits.

**Appropriation:** None.

**Fiscal Note:** Requested on February 20, 2009.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Storm water is a major problem in this state; technical assistance is a critical component to address the problem. This bill will provide for higher water quality in the state. This is the beginning of a process to address the concerns of stakeholders. Permittee compliance has been poor; technical assistance will help bring more permittees into compliance. Permits are extremely challenging to implement. Technical assistance will help businesses understand what to do in order to comply. The bill takes small steps to effective regulation. Storm water regulations need to be fixed. The stakeholder process is not effective. Precise, uniform, and enforceable requirements are needed.

(Opposed) This bill will bypass a stakeholder process. The bill strikes language that was a compromise when written. There are limited resources in the DOE for this program. There are about 16,000 unpermitted dischargers. Compliance is not good. Only a few permittees have adequate plans for addressing storm water.

(Information only) The permit must be more streamlined and enforceable. Technical assistance, research, and development need to be focused on. A bill is not needed now; the stakeholders are working toward crafting a technical assistance program.

**Persons Testifying:** (In support) Representative Blake, prime sponsor; Grant Nelson, Association of Washington Business; Ken Johnson, Weyerhaeuser; Gary Smith, Independent Business Association; Arthur West; Mike Leigh; and Michael Grayum, Puget Sound Partnership.

(Opposed) Bruce Wishart, People for Puget Sound; and Sue Joerger, Puget Soundkeepers Alliance.

(Information only) Melodie Selby, Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** None.